

## **Reply Exhibit 3**

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Health Care Financing Administration  
Division of Medicare  
2201 Sixth Avenue, RX-44  
Seattle, Washington 98121-2500

REGIONAL MEDICARE LETTER

Part B 94-05/DMERC 94-01

January 14, 1994

**SUBJECT:** Changes to Pricing and Processing of Certain Items of Durable Medical Equipment (DME) Required by the Omnibus Budget Reconciliation Act (OBRA) of 1993--**ACTION**

As a result of the Omnibus Budget Reconciliation Act of 1993, a number of changes have occurred in the treatment of certain DME items formerly classified as items requiring frequent and substantial servicing. These changes require action by the DME regional carriers and those carriers whose DME workload has not yet transitioned to the regional carriers:

A. Durable Medical Equipment (DME) that is reclassified from the "Items Requiring Frequent and Substantial Servicing" Category to the "Capped Rental" Category.

1. The following items have been reclassified as capped rental items effective January 1, 1994. As such, suppliers are bound by the provisions of section 5102.1.E of the Medicare Carriers Manual regarding payment for these items.

|       |                                       |
|-------|---------------------------------------|
| E0452 | Intermittent assist device            |
| E0601 | Continuous airway pressure device     |
| E0570 | Nebulizer, with compressor            |
| E0585 | Nebulizer, with compressor and heater |
| E0600 | Suction pump                          |

2. For purposes of computing the 10-month purchase option or the 15-month period for capped rental items, carriers are to begin counting from the first month that the beneficiary continuously rented the equipment. If the beneficiary rented the equipment for 15 or more months prior to January 1, 1994, no further rental charges can be made.

**B. DME that is reclassified from the Items Requiring Frequent and Substantial Servicing Category to the Inexpensive or Other Routinely Purchased Category.**

1. The following item has been reclassified to the inexpensive or other routinely purchased category effective January 1, 1994. As such, suppliers are bound by the provisions of section 5102.1.A of the Medicare Carriers Manual regarding payment for this item.

E1375 Nebulizer, portable

2. Total payment for this item is limited to the purchase fee schedule amount. Begin calculating the total payment amount beginning with the first month the beneficiary continuously rented the equipment. Therefore, if the total rental payments for this item equals or exceeds the fee schedule purchase price, cease making further payment.

Example: The purchase fee schedule amount for the item is \$500. If the beneficiary's total rental payments are equal to or exceed \$500 prior to January 1, 1994, cease making further payment.

NOTE: If you erroneously make payments in excess of the amounts permitted under A. or B. above, recover any such overpayments.

**C. Payment for Drug Dispensing Fees**

1. General -- Formerly, the costs of dispensing drugs for use in nebulizers was included in the rental allowance. As a result of the OBRA 1993 changes, fees are based on purchase allowances and many nebulizer rentals will be terminated. Therefore, for dates of service on or after January 1, 1994, where pharmacies provide drugs used in nebulizers, a monthly dispensing fee for each drug, in addition to the payment for the drug, may be paid. The fee may be paid regardless of whether the nebulizer is rented or owned. A new HCPCS code has been established for the billing of this fee. Please see the enclosure for the code.
2. Pricing -- Utilize an allowance of \$5.00 for the dispensing fee. This corresponds with the dispensing fee which is provided for in the President's Medicare prescription drug proposal contained in the Health Care Reform legislation.

**D. Payment for Accessories**

1. General -- Currently, Medicare does not pay separately for accessories to rented DME. OBRA 1993 requires a substantial departure from that policy for all covered aspirators and nebulizers and also for those ventilator type devices that are not considered to be frequently and substantially serviced. For dates of service on or after January 1, 1994, Medicare will pay separately for the accessories for such devices (the devices listed in A. and B. above, the ultrasonic nebulizer (E0575) and the two new devices described in the enclosed). A number of new K codes have been established for these accessories (described in the attached). The fee schedule amounts for the new codes for each state are to be determined by the DME regional carrier.
2. Pricing -- DME regional carriers are to establish accessory fee amounts and fee amounts for the two new devices. They must provide the fee amounts for these items for states that have not yet transitioned to the local carriers serving those states by January 7, 1994. Those local carriers are to use the fees for pricing those items until claims are transitioned to the DME regional carrier. DME regional carriers must also provide the necessary fee amounts to the Regional Home Health Intermediaries and the Railroad Retirement Board.

**E. Supplier Notification**

DME regional carriers must include notification of these revised payment policies in their January supplier bulletins. If a DME regional carrier is unable to include the information in its January bulletin, it must prepare a special bulletin for distribution to the suppliers in its region. Local carriers serving states that have not yet transitioned are to include notification within 30 days of receipt of this memorandum. The attached contains suggested supplier notification language. You are free to modify this language to any extent that you feel is necessary to make these policies clear.

Should you have any questions regarding this Regional Medicare Letter please contact Patty Wagner at (206) 615-2350.

/s/

Beverly J. Bell, Chief  
Medicare Operations Branch

Enclosure

Retention:  
Indefinite

Enclosure

**Suggested Supplier Notification Language**

1. Effective January 1, 1994, the law no longer requires that the following items be categorized as Items Requiring Frequent and Substantial Servicing. The following items have been reclassified as Capped Rental Items.

Intermittent assist device (E0452)  
Continuous airway pressure device (E0601)  
Nebulizer, with compressor (E0570)  
Nebulizer, with compressor and heater (E0585)  
Suction pump (E0600)

For purposes of computing the 10-month purchase option or the 15-month limit on rental for capped rental items, begin counting the first month that the beneficiary continuously rented the equipment. Therefore, if the Medicare beneficiary began renting one of these items on or after March 2, 1993, you must offer the beneficiary a purchase option because at least one day of the tenth rental month will occur on or after January 1, 1994. If, on January 1, 1994, the beneficiary has rented one of these items for 15 months or more, you must cease billing since the 15-month capped rental limitation will have been met.

Example 1 - If the equipment has been continuously rented beginning or before, October 1992, no further rental payments are made for dates of service in 1994 since 15 months rental will have occurred before January 1994. The semi-annual maintenance and service provision begins July 1, 1994.

Example 2 - If the beneficiary began renting the equipment between March 2, 1993 and April 30, 1993, the supplier must offer the beneficiary the purchase option during January 1994 as some portion of the beneficiary's 10th rental month will be in January. If the 10th rental month has ended prior to January 1994, the purchase option provision can not be offered to the beneficiary as this option may only be offered during the 10th rental month.

**IMPORTANT:** If you bill in excess of the amounts permitted under the provisions stated above, Medicare will recover, as overpayments, any erroneous payments made for such bills.

2. The following item has been reclassified as Inexpensive or Other Routinely Purchased:

Nebulizer, portable (E1375)

Total payment for this item is limited to the purchase fee schedule amount. Begin calculating the total payment amount beginning with the first month the beneficiary continuously rented the equipment. Once the total rental payments for E1375 equals or exceeds the fee schedule purchase price, Medicare will cease making payments for dates of service in 1994. Medicare will pay for services billed in 1994 with dates of service in 1993, even if the purchase price was exceeded on that date of service.

**IMPORTANT:** If you bill in excess of the amounts permitted under the provisions stated above, Medicare will recover, as overpayments, any erroneous payments made for such bills.

3. For dates of service on or after January 1, 1994, accessories used with those items listed above or with the two new items listed below should be billed separately whether the item is being rented or has been purchased. Use the following accessory codes:

DME Nebulizer Accessories

|       |  |
|-------|--|
| K0168 | Administration set, small volume nonfiltered pneumatic nebulizer, disposable     |
| K0169 | Small volume nonfiltered pneumatic nebulizer, disposable                         |
| K0170 | Administration set, small volume nonfiltered pneumatic nebulizer, non-disposable |
| K0171 | Administration set, small volume filtered pneumatic nebulizer                    |
| K0172 | Large volume nebulizer, disposable, unfilled, used with aerosol compressor       |
| K0173 | Large volume nebulizer, disposable, prefilled, used with aerosol compressor      |

|       |   |
|-------|---|
| K0174 | Reservoir bottle, non-disposable, used with large volume ultrasonic nebulizer |
| K0175 | Corrugated tubing, disposable, used with large volume nebulizer, 100 feet     |
| K0176 | Corrugated tubing, non-disposable, used with large volume nebulizer, 10 feet  |
| K0177 | Water collection device, used with large volume nebulizer                     |
| K0178 | Filter, disposable, used with aerosol compressor                              |
| K0179 | Filter, non-disposable, used with aerosol compressor or ultrasonic generator  |
| K0180 | Aerosol mask, used with DME nebulizer   |
| K0181 | Dome and mouthpiece, used with small volume ultrasonic nebulizer              |
| K0182 | Water, distilled, used with large volume nebulizer, 1000 ml                   |

CPAP device accessories

|       |   |
|-------|---|
| K0183 | Nasal application device, used with CPAP device                     |
| K0184 | Nasal pillows/seals, replacement for nasal application device, pair |
| K0185 | Headgear, used with CPAP device                                     |
| K0186 | Chin strap, used with CPAP device                                   |
| K0187 | Tubing, used with CPAP device                                       |
| K0188 | Filter, disposable, used with CPAP device                           |
| K0189 | Filter, non-disposable, used with CPAP device                       |

Suction pump accessories

|       |  |
|-------|--|
| K0190 | Canister, disposable, used with suction pump     |
| K0191 | Canister, non-disposable, used with suction pump |
| K0192 | Tubing, used with suction pump                   |



3. Two new device codes have been established, both of which will be capped rental devices:

K0193 Continuous positive airway pressure device, with humidifier

K0194 Intermittent assist device with continuous positive airway pressure, with humidifier

4. For dates of service on or after January 1, 1994, where pharmacies provide drugs used in nebulizers, a monthly dispensing fee for each drug, in addition to the payment for the drug, may be paid. The fee may be paid regardless of whether the nebulizer is rented or owned. A new HCPCS code has been established for the billing of this fee:

Q0132 Dispensing fee for covered drug administered through DME nebulizer

LAST PAGE OF ENCLOSURE